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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,081	09/11/2003	Paul T. Van Gompel	659-1764 K-C Ref. No. 159	5888
7590	01/12/2006		EXAMINER	
Andrew D. Stover BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			MUSSER, BARBARA J	
			ART UNIT	PAPER NUMBER
			1733	

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/660,081	VAN GOMPEL ET AL.	
	Examiner Barbara J. Musser	Art Unit 1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 October 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-18 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otsubo(U.S. Patent 6,450,996) or Otsubo(CA 2,292,168)[All column and line number refer to the U.S. Patent.] in view of Van Gompel et al.(U.S. Patent 4,938,753).

Otsubo discloses an absorbent garment having a topsheet(13), a backsheet(14), and an absorbent core(15). (Figure 2) The garment has a fold running its length from one waist section to the other along at least one side. (Figure 1) This fold is unfoldable at the waist sections and the fold causes the garment to be laterally expandable at the waist sections. (Col. 3, ll. 12-15, 33-38) The reference does not disclose that the front and back side panels of the garment are separate side panels which are attached to the main body of the garment. Van Gompel et al. discloses a well-known method of forming a diaper includes joining separate front and back side panels to the main core of the garment. (Figure 5A) It would have been obvious to one of ordinary skill in the art at the time the invention was made that separate front and back side panels could be attached to the main core of the garment rather than formed with it since this is a well-known alternative as shown for example by Van Gompel et al. (Figure 5A)

Regarding claim 2, Otsubo discloses the side panels have tape(12) which secures the front side panels to the back side panels in use.(Figure 1; Col. 2, ll. 34-50)

Regarding claims 14 and 16, Otsubo discloses elastic leg holes which are along one side of the composite.(10,11)

Regarding claim 15, Otsubo discloses the backsheet can be a laminate made of a vapor-permeable liquid impermeable film bonded to a nonwoven fabric.(Col. 4, ll. 38-42) While the reference does not explicitly state the fabric is the outer layer, one in the art would appreciate that it would be since the only obvious purpose of the nonwoven is to improve touch or image, either of which would require the nonwoven to be the exterior layer. The vapor-permeable liquid impermeable layer can be considered a barrier between the core and the nonwoven backsheet.

Regarding claim 17, while Otsubo does not disclose the side panels being made of an elastic material, Van Gompel et al. discloses the side panels can be made of elastic.(Col. 3, ll. 10-11) It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the side panels of Otsubo from an elastic material since Van Gompel et al. discloses this is a known type of side panel and since an elastic panel would result in a good fit.

3. Claims 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otsubo and Van Gompel et al. as applied to claim 1 above, and further in view of Putzer et al.

The references cited above do not disclose the absorbent core being interfolded with the backsheet. Putzer et al. discloses it is known that when forming a folding the

backsheet, the core can either be interfolded with the backsheet or not.(Figures 4 and 5) It would have been obvious to one of ordinary skill in the art at the time the invention was made that the absorbent core could be wider and interfolded with the backsheet rather than narrow and not interfolded with the backsheet since Putzer et al. discloses these are alternatives in the art(Figures 4 and 5) and since a larger absorbent core would allow the absorption of a larger amount of fluid.

Regarding claim 4, since the fold(18) unfolds, one in the art would appreciate that in the unfolded state the garment had a different width than in the folded state.

Regarding claim 5, since the folds are bonded to a web(2) at the center of the folds, the ends of the folds could be unfolded without unfolding the center.

Regarding claim 6, since the Figures of Otsubo show the folds together are substantially wider than 10% of the width of the body, one in the art would appreciate that the difference between the expanded and unexpanded widths would be at least 10%, particularly since for the difference in width to be less than 10%, each fold would have to be very small.

Regarding claim 7, Otsubo discloses the topsheet(16) is interfolded with the backsheet.(Figure 1)

4. Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otsubo and Van Gompel et al. '753 as applied to claim 1 above, and further in view of Van Gompel et al. '584(WO 00/30584).

The references cited above do not disclose the diaper front and back being extensible. Van Gompel et al. '584 discloses making the cover resiliently stretchable to

result in a considerably improved fit.(Pg. 2, ll. 16-18, 30-31) It would have been obvious to one of ordinary skill in the art at the time the invention was made to add a back cover to the diaper of Otsubo and Van Gompel et al. '753 and to make this cover and the topsheet of the diaper extensible since this would result in an improved fit of the diaper(Pg. 2, ll. 16-18, 30-31) particularly since Van Gompel et al. discloses using folds in conjunction with extensible covers(Figure 4A).

Regarding claims 9 and 12, Van Gompel et al. discloses the outer cover can elongate at least 1 cm when subjected to a force of 30 gmf per inch.(Pg 8, ll. 5-6)

Regarding claims 10 and 13, Van Gompel et al. discloses the extensible layer can provide a substantially permanent deformation of at least about 20% when subjected to a force of 50 gmf per inch and then allowed to relax for one minute.(Pg. 8, ll. 7-8)

Response to Arguments

5. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara J. Musser whose telephone number is (571) 272-1222. The examiner can normally be reached on Monday-Thursday; alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571)-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


BJM


SAM CHUAN YAO
PRIMARY EXAMINER